IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

MFA.No. 1551 of 1998()

OPMV.16/1993 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PERUMBAVOOR

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APPELLANT- APPELLANT:

P.P. DEVASSY, SON OF PAPPU PARASSERY HOUSE, CONVENT ROAD, PONNURUNNY, COCHIN - 19.

BY ADV. SRI.ANIL S.RAJ

RESPONDENTS - RESPONDENTS:

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1. **R. SOUNDARA RAJAN, S/O. S.C. RAMASWAMY, DOOR NO.16, IIND STREET, GANDHIPURAM, ERODE DISTRICT, TAMIL NADU. (DELETED)**

2. **M. RAJAMANIKKAM, S/O. MUTHUSWAMY, 10, GANDHIPURAM IIIRD STREET, ERODE, TAMIL NADU.**

3. **NATIONAL INSURACNE COMPANY LIMITED, 52 T.V.S' STREET, ERODE - 1, TAMIL NADU.**

IST RESPONDENT IS DELETED FROM THE PARTY ARRAY AS PER ORDER DATED 8.3.2006 IN I.A. NO.530 OF 2006.

BY ADV. SMT.SARAH SALVY

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 07/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

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M.F.A. NO. 1551 OF 1998

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Dated this the 7th day of June, 2007

J U D G M E N T

Petitioner in O.P(MV) No.16 of 1993 on the file of the Motor Accidents Claims Tribunal, Perumbavoor is the appellant. He filed the O.P. claiming Rs.50,000/- as compensation on account of the damages sustained to his lorry bearing Reg.No.KLF-8255. On 20.3.1992 at about 10.00 p.m. while the petitioner was driving his lorry it collided with another lorry bearing Reg.No.TNM-7686. Petitioner alleged that on account of the collision his vehicle sustained damages. It was averred that the accident occurred due to the negligence of the driver of the offending vehicle and petitioner had to spent more than Rs.50,000/- for carrying out the repairs. Hence the Original Petition claiming Rs.50,000/- as compensation. Third respondent, Insurer, alone contested the case. It was admitted that lorry No.TNM-7686 was covered by a valid policy of insurance. The averment that the appellant was the owner of lorry No.KLF-8255 was denied.

The averment that the accident occurred due to the negligence of the driver of the offending vehicle was also denied. Quantum of compensation claimed as damages to property was denied.

2. The Tribunal found that the accident occurred due to the negligence of the driver of lorry No.TNM-7686. But the petition was dismissed on the ground that the petitioner did not produce any documents to prove his title. It was also found that the appellant failed to adduce evidence to prove the quantum of damages. Challenging the award passed by the Tribunal, this appeal is filed.

3. This is a case in which the contesting respondent denied the title of the petitioner over his lorry. In spite of the specific denial, the appellant did not produce any documents before the Tribunal to establish his title over the lorry. He did not produce any documents before this Court also. He did not produce the particulars of the RC Book, Fitness Certificate, etc., of the lorry for proving the title. Further, he did not adduce any evidence to prove the actual quantum of damages. No report from a competent Surveyor is produced. So the

finding of the Tribunal that the petitioner failed to prove the title and the damages caused to the vehicle and as such he is not entitled to claim compensation towards property damages is only to be confirmed. There is no merit in the appeal and it is only to be dismissed.

In the result, the appeal is dismissed.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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M.F.A. 1551 OF 1998

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J U D G M E N T

7TH JUNE, 2007